


## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference TXES513444-137025MJ	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/BE2004/000092	International filing date (day/month/year) 24.06.2004	Priority date (day/month/year) 24.06.2003	
International Patent Classification (IPC) or national classification and IPC A23G9/00			
Applicant FUJI OIL EUROPE et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand  20.04.2005		Date of completion of this report  05.08.2005	
Name and mailing address of the International preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Vernier, F  Telephone No. +49 89 2399-8646	



**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/BE2004/000092

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

1-27 as originally filed

**Claims, Numbers**

1-29 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	1-29
	No: Claims	
Inventive step (IS)	Yes: Claims	1-29
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-29
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

**Item V**

1. The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: US-A-5 786 019

D2: US-A-4 276 322

D3: US-A-4 702 928

D4: EP-A-0 502 697

D5: EP-A-1 040 761

D6: WO 03/080779 A                      2 October 2003 (2003-10-02)

2. Novelty (Article 33(2) PCT)

None of the cited prior art documents discloses a process for the production of a fat composition suitable for use as a confectionery fat, starting with the specific fat of present claim 1 (ranges of S2U, SU2+U3, S3, diglycerides and interesterified fat) and subjecting it to a catalytic hydrogenation. Thus, present claims 1-29 meet the requirements of novelty.

3. Inventive step (Article 33(3) PCT)

In view of the technical problem to be solved (to provide a fat composition having a steep SFC profile and being of the non-temper type) and its unexpected solution (the process of present claim, in which a catalytic hydrogenation of a specific starting fat is carried out), the subject-matter of claims 1-29 can be regarded as involving an inventive step (Article 33(3) PCT) over any of the cited prior art documents.

4. To meet the requirements of Rule 5.1 PCT, the documents D1-D6 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.